

IN THE UNITED STATES DISTRICT COURT

UNITED STATES)
v.) CR 7-442
) CV 12-366

EDNA GORHAM-BEY

MEMORANDUM ORDER

Before the Court is Defendant's Motion to Amend/Correct Order. The Motion to correct the Order is moot, because Defendant has already been provided an opportunity to amend her Section 2255 Motion, within sixty days from March 29, 2012. Defendant has stated her intention to amend her Motion. Her initial Section 2255 Motion rests on claims that a Government witness lied under oath; that trial counsel did not diligently prepare for trial; failed to acknowledge her plea for a speedy trial; that trial counsel incorrectly decided not to call a co-defendant as a witness; and that the prosecutor mentioned to the jury that Defendant was in jail.

In addition, Defendant seeks the appointment of counsel to assist her with preparing her amended Section 2255 Motion.

[T]he district court must first decide if the petitioner has presented a nonfrivolous claim and if the appointment of counsel will benefit the petitioner and the court. Factors influencing a court's decision include the complexity of the factual and legal issues in the case, as well as the pro se petitioner's ability to investigate facts and present claims. Courts have held, for example, that there was no abuse of a district court's discretion in failing to appoint counsel when ... the issues were straightforward and capable of resolution on the record or the petitioner had a good understanding of the issues and the ability to present forcefully and coherently his contentions.

Reese v. Fulcomer, 946 F.2d 247, 263-64 (3d Cir.1991) (quotations and citations omitted).

At this juncture, taking those factors into account, I cannot conclude that the interests of justice require the appointment of counsel in order for Defendant to prepare her amended Section

2255 Motion. I will deny Defendant's Motion at this time. If justice requires the appointment of counsel following an amended Section 2255 Motion, the Court shall appoint counsel.

AND NOW, this 4th day of May, 2012, Defendant's Motion to Amend/Correct [190] is DENIED.

BY THE COURT:

/s/Donetta W. Ambrose

Donetta W. Ambrose

Senior Judge, U.S. District Court